

# ATTESTATION ENGAGEMENT

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District Court 10-2-06  
Westmoreland County, Pennsylvania  
For the Period  
January 1, 2012 to December 31, 2015

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June 2017



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable C. Daniel Hassell  
Acting Secretary  
Pennsylvania Department of Revenue  
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 10-2-06, Westmoreland County, Pennsylvania (District Court), for the period January 1, 2012 to December 31, 2015, pursuant to the requirements of Section 401(c) of *The Fiscal Code*, 72 P.S. § 401(c). The District Court's management is responsible for this Statement. Our responsibility is to express an opinion on this Statement based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Statement and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 401(c) of *The Fiscal Code* to audit the accounts of each district court to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 401(c) of *The Fiscal Code*.

In our opinion, the Statement referred to above presents, in all material respects, the operations of the District Court as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2012 to December 31, 2015, in conformity with the criteria set forth in Note 1.

### Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statement; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statement. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Statement is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

Our consideration of internal control over reporting on the Statement was for the limited purpose of expressing an opinion on whether the Statement is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statement that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiency listed below to be a material weakness:

- Missing Case Files.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiency listed below to be a significant deficiency:

- Evidence Of Authorizing The Disposition Of Citations Was Not Available.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the District Court's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the District Court and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by District Court 10-2-06, Westmoreland County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale", with a long horizontal flourish extending to the right.

Eugene A. DePasquale  
Auditor General

June 9, 2017

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DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

Receipts:

Department of Transportation	
Title 75 Fines	\$ 275,800
Motor Carrier Road Tax Fines	150
Overweight Fines	6,848
Littering Law Fines	1,375
Child Restraint Fines	717
Department of Revenue Court Costs	194,681
Crime Victims' Compensation Bureau Costs	16,352
Crime Commission Costs/Victim Witness Services Costs	11,707
Domestic Violence Costs	3,968
Department of Agriculture Fines	150
Emergency Medical Service Fines	97,329
CAT/MCARE Fund Surcharges	267,505
Judicial Computer System Fees	96,704
Access to Justice Fees	26,923
Criminal Justice Enhancement Account Fees	4,981
Judicial Computer Project Surcharges	28,988
Constable Service Surcharges	3,483
Miscellaneous State Fines and Costs	<u>255,379</u>
Total receipts (Note 2)	1,293,040
Disbursements to Commonwealth (Note 3)	<u>(1,293,040)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)	-
Examination adjustments	<u>-</u>
Adjusted balance due Commonwealth (District Court) for the period January 1, 2012 to December 31, 2015	<u>\$ -</u>

Notes to the Statement of Receipts and Disbursements are an integral part of this report.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

1. Criteria

The Statement of Receipts and Disbursements provides a summary of receipts and disbursements by category. The categories and the amounts of fines, costs, fees, and surcharges assessed are based on Pennsylvania laws and regulations.

The Statement was prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Revenue. Under this method, only the Commonwealth portion of cash receipts and disbursements are presented, revenues are recognized when received, and expenditures are recognized when paid.

2. Receipts

Receipts are comprised of fines, costs, fees, and surcharges collected on behalf of the Commonwealth. These fines, costs, fees, and surcharges represent collections made on traffic, non-traffic, civil, and criminal cases filed with the District Court.

3. Disbursements

Total disbursements are comprised as follows:

District Court checks issued to:

Department of Revenue	<u>\$ 1,293,040</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2012 To December 31, 2015

This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

5. Magisterial District Judge Serving During Examination Period

Charles M. Christner served at District Court 10-2-06 for the period January 1, 2012 to December 31, 2015.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Finding No. 1 - Missing Case Files**

Our examination of the district court required that certain case files be examined. We encountered considerable difficulty in finding a number of case files. There were 15 out of 100 case files needed for testing that could not be located.

In order for an entity to have an efficient record-keeping system, each court document must be filed timely and properly. Additionally, the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) outlines the proper filing procedures for all district courts to follow.

The failure to follow these guidelines could result in case file documents being lost, misfiled, or intentionally destroyed. Additionally, collections associated with missing case files and documents could be misappropriated.

Adherence to the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over case files.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over the accountability of case files.

**Recommendation**

We recommend that the district court initiate procedures to ensure that all cases are properly filed and contain appropriate documents as outlined in the Manual.

**Management's Response**

The Magisterial District Judge responded as follows:

We have procedures in place to ensure all cases are properly filed and controlled as outlined in the manual. Also, we follow the retention schedule and have been accustomed to state audits every 2 years. Since it had been 5 years since our last state audit, some files were accidentally destroyed as per the retention schedule.

**Auditor's Conclusion**

During our next examination, we will determine if the district court complied with our recommendation.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Finding No. 2 - Evidence Of Authorizing The Disposition Of Citations Was Not Available**

During our examination of the district court's case files, we tested 58 cases with dispositions of not guilty, dismissed, discharged, or withdrawn, and cases that had a guilty plea disposition without an accompanying full payment. There was no evidence in 18 cases that the disposition was authorized by the Magisterial District Judge.

Good internal accounting controls ensure that there is evidence that the disposition on these cases was authorized by the Magisterial District Judge. The failure to follow this procedure increases the risk for funds to be lost or misappropriated.

Adherence to good internal controls would have ensured that there were adequate internal controls over citations.

This condition existed because the office failed to establish and implement an adequate system of internal controls over documenting that disposition was authorized by the Magisterial District Judge.

**Recommendation**

We recommend that there is evidence that the Magisterial District Judge authorize the disposition of these cases and it is available for examination.

**Management's Response**

The Magisterial District Judge responded as follows:

All dispositions are authorized by the Magisterial District Judge. Disposition information is included on and in the folder. If electronic citations are to include the Magisterial District Judge's signature, then there should be a signature line. We will put in a request to add a signature line to the electronic citations.

**Auditor's Conclusion**

During our next examination, we will determine if the district court complied with our recommendation.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
OBSERVATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Observation - Failure To Properly Assess Server Fees On Warrants**

Our examination of the district court's warrant procedures found that a now retired president judge issued a court order, effective October 29, 2010, that stated that magisterial district courts shall issue all warrants to the Sheriff's Department for service instead of the local constable. This order also authorized a \$60 warrant server fee to be assessed on each warrant issued to the Sheriff's Department. In addition, the same judge issued an additional court order, effective July 1, 2011, that established a centralized warrant system. The court order stated that all of the court's bench warrants and warrants of arrests were required to be processed through a centralized warrant control system in the Westmoreland County Sheriff's Department.

However, server fees should be assessed according to the Sheriff's Fee Act. In addition, the fees must be documented to ensure that the service was actually performed. The documentation should include the date of service, type of service and any mileage incurred, when applicable.

Our examination of 51 warrants issued through the centralized warrant control system found that 18 of the 51 warrants had server fees assessed on each warrant. We found the following:

- All 18 warrants had server fees assessed in the amount of \$60 which appear to have exceeded the statutorily-permitted amount. The Sheriff's Fee Act, 42 P.S. §21111, established a schedule of permissible fees which can be charged for issuing a warrant. The fee schedule list the fee for receiving, docketing, and returning a warrant at \$9 and \$30 if an arrest is made.
- None of the 18 warrant case files contained a fee bill detailing and documenting the justification and approval of the \$60 fee assessment.

This condition existed because the district court was complying with the retired president judge's orders/directives for the assessment of the \$60 fee.

**Recommendations**

We recommend that server fees are assessed at the amounts established by the Sheriff Fee Act. In addition, the fees assessment should be documented in each case file to ensure that service was actually performed. Documentation should include the date and type of service performed.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
OBSERVATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Observation - Failure To Properly Assess Server Fees On Warrants (Continued)**

Management's Response

The Sheriff responded as follows:

Regarding the Sheriff MDJ warrant fees, we will itemize the charges for serving a warrant at the MDJ level. We agree to itemize each bill for each docket on the work that is performed. This would mean that for service of each warrant, our process would be to set forth what is charged for the arrest, for detainment, and for docketing, etc.

The District Court Administrator, on behalf of the Magisterial District Judge, responded as follows:

In the state audit report, the Auditor General's Office has made an observation which indicates that Westmoreland County's centralized warrant process is flawed or should be amended. Westmoreland County Magisterial District Judges, however, have been advised as recently as 2016, and for the same audit cycle as is subject of the State audit, that the centralized warrant procedure would not give rise to findings or observations. Westmoreland County Magisterial Judges therefore have relied, to their detriment, upon representations made during others audits as recently as in 2016, for the same cycle as is presently audited, and were not aware that the centralized warrant process was alleged to be flawed.

Similarly, the Auditor General's Office indicates that the failure to properly assess server fees on warrants is an "observation" (as opposed to a finding) because the Auditor General's Office does not typically audit the warrant process, as the same does not involve state monies. The Westmoreland County Controller's Office does audit fees on warrants, yearly, and has, in past years indicated that there is no reason for an audit finding with regard to the centralized warrant procedure or with any fees. The Magisterial District Judges are advised that the Westmoreland County Controller maintains this opinion presently, as well.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
OBSERVATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Observation - Failure To Properly Assess Server Fees On Warrants (Continued)**

**Management's Response (Continued)**

The Auditor General has indicated that the Sheriff Fee Act, 42 P.S. Section 21111 established a schedule of permissible fees which can be charged for issuing a warrant. The Magisterial District Judges believe that the provisions of the Sheriff Fee Act must be read as a whole, and that a fair reading of permissible fees should include a reading of section 21119, which authorizes the Sheriff to impose other costs. For support, they rely on provisions of 1 Pa.C.S. Section 1921 (a), which provides that "the object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions." Therefore, the Magisterial District Judges believe that reliance solely upon Section 21111 of the Act is misplaced, as the Act must be read as a whole.

**Auditor's Conclusion**

We are mandated by Section 401(c) of *The Fiscal Code* to audit the accounts of each district court to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. The fees in question are not Commonwealth funds. However, during our current examination, we found that the warrant server fees were not assessed properly and that defendants may have been overcharged. Therefore, we brought it to the attention of the magisterial district judge. Even though this matter did not rise to the level of a finding, we felt that it was necessary to disclose the issue so that it may be resolved.

The Sheriff's Fee Act established a schedule of permissible fees which can be charged for issuing a warrant. It is imperative that all the fees charged for services by the Sheriff's office are properly itemized and documented to ensure that the service was actually performed. Without proper documentation of the services provided by the Sheriff, it appears that the county's flat fee of \$60 exceeded the statutorily-permitted amount.

Regarding Management's response above stating that the Department of the Auditor General (Department) indicated that sole reliance on assessing these fees should be on the Sheriff Fee Act, 42 P.S. Section 21111, the Department never indicated or made such a statement. The Department's position on this matter is that server fees MUST be documented and assessed at the amounts established by the Sheriff Fee Act. Charging a flat fee of \$60 on every case in which a warrant is issued to a Sheriff (not actually served) may have resulted in defendants being overcharged. While Management is correct that Section 21119 permits the sheriff to collect costs such as mileage and postage, recovery of such costs is permissible only as "incident to the performance" of the act required of the office. Charging a flat fee for costs which are not incurred is not permitted under the Sheriff's Fee Act and simply not included in Section 21119. During our next examination, we will determine if the office complied with our recommendations.

DISTRICT COURT 10-2-06  
WESTMORELAND COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

This report was initially distributed to:

**The Honorable C. Daniel Hassell**  
Acting Secretary  
Pennsylvania Department of Revenue

**The Honorable Thomas B. Darr**  
Court Administrator of Pennsylvania  
Supreme Court of Pennsylvania  
Administrative Office of Pennsylvania Courts

**The Honorable Charles M. Christner**  
Magisterial District Judge

**The Honorable Gina Cerilli**  
Chairperson of the Board of Commissioners

**The Honorable Jeffrey Balzer**  
Controller

**Amy M. DeMatt, Esquire**  
District Court Administrator

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).